

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 12 January 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

**Glenn Harwood MBE (Chairman) Anna Sauntson
Brian Northall**

PART A ITEMS

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenn Harwood MBE be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meetings of the Taxi Panel held on 7 and 11 September 2009 and the Panel of the Policy and Resources Committee held on 3 November 2009 were approved and signed by the Chairman.

3. DECLARATIONS OF INTEREST

No interests were declared.

4. APPLICATIONS FOR HOUSE TO HOUSE COLLECTION LICENCES

The Panel considered applications for House to House Collection Licences made under the House to House Collections Act 1939.

(a) SOS Clothes Ltd

The Licensing Officer reported on an application from SOS Clothes Ltd., a clothes and footwear wholesaler based in London, to hold house to house collections throughout the district on various dates between January and May 2010.

The application stated that an amount from the proceeds of the collections would be given to 'Tree of Hope', a children's charity registered with the UK Charities Commission.

The applicants were not present at the Hearing but the Panel agreed that it should consider the application in their absence.

On the application form, the applicants had answered "No" to the question asking whether a Licence had ever been refused. However, applications for similar licences had been refused by Liverpool City Council in July and December 2009, because the applicants' proposed donation to their nominated charity was considered to be insufficient.

The Panel noted that a letter had been sent to the applicants on 2 December 2009 requesting further financial information but no reply had been received to date.

After considering the Officer's report, including advice from the Solicitor to the Council, the Panel retired to consider the application and evidence presented at the Hearing, and it was

RESOLVED:

That the application from SOS Clothes Ltd for a House to House Collections Licence be refused.

The Chairman read out the following statement giving the reasons why the Panel had refused to grant the Licence: -

"The Applicants had chosen not to attend the Hearing and had not responded to letters requesting additional relevant information. Consequently the Panel was not given the opportunity to ask questions about the application.

Without further detailed information, the Panel considered that the applicants had failed to meet the requirements of Section 2(3)(f) of the House to House Collection Act 1939 which states that "*The applicant or holder of the Licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs*".

In reaching this decision, the Panel considered that it required the following information:-

1. Evidence of the total amount likely to be applied for charitable purposes as a result of the collection (including any amount already applied) as it could be inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
2. Remuneration, in relation to total amounts raised and total amounts donated to charity.

The Panel also had concerns that the applicants had answered "no" to question 15 on the application form which asked "*has the applicant, or to the knowledge of the applicant, anyone associated with the promotion of the collection, been refused a licence or order under the Act, or had a licence or order revoked?*" The Licensing Officer had advised the Panel that Liverpool City Council had doubts with similar applications from the same applicants and had subsequently refused them on 30 July 2009 and 2 December 2009.

The Panel's decision would be sent in writing to the applicants within 14 days and they would be advised about their right of appeal to the Secretary of State if they were aggrieved with the Panel's decision".

(b) Unicare Ltd

The Licensing Officer reported on two applications from Unicare Ltd, a clothes and footwear wholesaler based in Leeds, to hold house to house collections throughout the district on various dates between March and December 2010. The first application had been submitted on 27 November and the second on 3 December 2009.

Both applications stated that an amount from the proceeds of the collections would be given to 'Children Our Future', a children's charity registered with the UK Charities Commission.

A letter had been sent to Unicare Ltd. requesting further financial information. An e-mail was received from the applicants on 8 December 2009 giving figures for six collection days in the district. However, the applications were for a number of collection periods and the e-mail listed five days which had not been applied for. The figures for collector's remuneration were also different in the application forms to those stated in the e-mail and in a letter from Unicare dated 7 December 2009.

The applicants had stated that applications for similar Licences had been made to six other local authorities to collect on behalf of the children's charity. If the donation of £6,000 to this charity came from only six collections in this district, the donations were considered to be reasonable. However, it appeared that the donation would be the total donation from all the collections taking place in other authorities' areas this year and the proposed donation of £6,000 appeared to be insufficient. It was also understood that the applicants were planning collections in up to 82 other authorities' areas and the total figure collected could be in excess of £1.6m annually.

The Panel noted that the collection bag stated that the bag and contents belonged to Retexa and it was not clear who this company was.

Mrs Olena Romanyshyn, Unicare Ltd's company secretary, spoke in support of the applications. She explained that two applications had been submitted to this Council because some dates requested on the first application had not been available. There would be six vans collecting in the district initially and, if successful, the company had plans to extend the vehicles to 40 for collections throughout the UK. She stated that 80% of the amount collected in the district would be donated to the charity and 20% would be for company expenses. The amount donated to the charity would be £1,000 per month from all collections in the UK and that the amount of donation would be increased if these collections became successful. She refuted the claim that the company could make up to £1.6m from all the collections in the UK and that the estimated amount would be much lower. It was confirmed that Retexa was part of Unicare Ltd.

Mr Mindaugas Mameniskis, Unicare Ltd's financial director, also spoke in support.

The Panel asked Mrs Romanyshyn and Mr Mameniskis some questions about the applications and sought further information and clarification on the:

- percentage of donations to the charity claimed by the applicants
- applications for similar Licences made to other local authorities which had been granted or refused
- amount of tonnage to be collected and estimated returns from the collections in East Northamptonshire and collections from other areas of the UK
- company's business plans for the future.

After considering the Officer's report and the representations made at the Hearing from Mrs Romanyshyn and Mr Mameniskis, including advice from the Solicitor to the Council, the Panel retired to consider the application and evidence presented at the Hearing, and it was

RESOLVED:

That the two applications from Unicare Ltd for House to House Collections Licences be refused.

The Chairman read out the following statement giving the reasons why the Panel had refused to grant the Licences: -

1. The Panel was not convinced that the applications were reliable and fully transparent. In particular, the applicants had not provided a business plan and the applicants' responses to questions about total amounts raised and percentages of that amount being donated to charity were vague.
2. Without detailed information, the Panel considered that the applicants had failed to meet the requirements of Section 2(3)(f) of the House to House Collection Act 1939 which states that "*The applicant or holder of the Licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs*".
3. The Panel also considered that there was insufficient evidence provided that could clearly demonstrate the applications were in accordance with Section 2(3)(b) of the House to House Collection Act 1939, which states that "*remuneration which is excessive in relation to the total amount raised, is likely to be, or has been, retained or received out of the proceeds of the collection by any person*"
4. The Panel had not been convinced that in accordance with Section 2(3)(a) of the House to House Collection Act 1939, the total amount likely to be applied for charitable purposes as the result of the collections (including any amount already so applied) would be adequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
5. The Panel noted discrepancies between the operating cost figures provided in the application forms and the figures in a letter from Unicare Limited dated 7 December 2009 and an email from unicaremail.co.uk dated 8 December 2009. The Panel considered the figures to be unreliable and not transparent.
6. In addition, the Panel noted the applicants had replied "No" to question 15 on the application form which asked "*has the applicant, or to the knowledge of the applicant, anyone associated with the promotion of the collection, been refused a licence or order under the Act, or had a licence or order revoked?*"

During the Hearing, the applicant had submitted a document listing a number of Local Authorities where the company had applied for similar House to House Collection Licences. According to that list, a number of Licences had been received by Unicare Limited but a number of applications had been refused by the following Authorities:

Newport, Swansea, Carmathern, Pembrokeshire and North West Leicestershire. In addition, Northampton had "not approved" an application.

Despite the applicants' explanation that the refusals were issued subsequent to the two applications dated 27 November and 3 December 2009, the Panel was not convinced and the applicants could not provide further evidence to substantiate the information provided in the submitted document.

The Panel's decision would be sent in writing to the applicants within 14 days and they would be advised about their right of appeal to the Secretary of State if they were aggrieved with the Panel's decision on both applications".

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 16 February 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Richard Gell
Gill Mercer

Brian Northall (Chairman)

PART A ITEMS

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Brian Northall be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meeting of the Taxi Panel held on 28 October 2009 were approved and signed by the Chairman.

3. DECLARATIONS OF INTEREST

No interests were declared.

4. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be excluded from the meeting during consideration of the following item of business because exempt information, as defined under Paragraphs 1 and 7 of Schedule 12A of the Local Government Act 1972, may be disclosed.

5. APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Licensing Officer reported on an application for the renewal of a Hackney Carriage and Private Hire Driver's Licence under the Town Police Clauses Act 1847 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.

The Criminal Records Bureau (CRB) disclosure revealed that the applicant had been fined £30.00 on 15 October 1979 for the offence of theft and had also received a conditional discharge of one year for assault occasioning actual bodily harm.

The applicant had been licensed as a driver with this authority since 10 January 2002.

The Panel noted that a short term Licence had been issued to enable the applicant to continue working until her application was considered by a Panel.

The applicant spoke in support of her application and answered questions from the Panel about the circumstances of the offences.

After considering the Officer's report and representations made by the applicant, including advice from the Solicitor, the Panel retired to consider the application and evidence presented at the Hearing, and it was

RESOLVED:

That the application for the renewal of a Hackney Carriage and Private Hire Driver's Licence be granted for two years with standard conditions.

The Chairman read out the following statement giving the reasons why the Panel had granted the application with standard conditions: -

"The Panel had reference to the Government Guidance when making its decision and the reasons for granting the application were as follows:-

The Panel:

1. Noted that the two offences disclosed by the CRB were thirty one years old and whilst each was serious in its own right, the Panel considered those convictions were sufficiently dated and carried limited weight in the decision making process.
2. Wished to emphasise that the safety of the public was paramount and warned the applicant that should she be convicted of any offence under the prescribed offences list of East Northamptonshire Council's Terms and Conditions for Hackney Carriage and Private Hire Drivers, her Licence could be revoked.
3. Wished to advise the applicant that her conduct should be exemplary whilst holding a Licence."

The Chairman mentioned that the Panel's decision would be sent in writing to the applicant within 21 days and that she had a right of appeal to the Magistrates Court if she was aggrieved with the decision.

Chairman